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Memorandum

DATE: May 9, 2007

TO: Representative Bieda, Chairperson, House Tax Policy Committee
House Tax Policy Committee Members

FROM: Rachel Asbury, Member, Michigan Tax Tribunal
Patricia Halm, Member, Michigan Tax Tribunal

SUBJECT: Tax Tribunal Proposed Legislation

These proposed amendments to the Tax Tribunal Act (TTA) are designed to provide taxpayers more meaningful access to the Tribunal and to provide litigants more choices in determining a resolution process that fits the needs of their cases and their budgets. Additionally, the bills streamline Tribunal procedures and reduce the Tribunal's administrative costs.

House Bill 4433: Formalizes Mediation Practice at the Tribunal and Provides Protections to Taxpayers

House Bill 4433 amends sections 3, 31, and 32 of the TTA, MCL 205.703, 205.731, and 205.732, to establish mediation practice at the Tribunal.

Section 3 is amended to include definitions of the terms "mediation" and "mediator."

Section 31 is amended to make clear the Tribunal's authority to mediate tax disputes that are filed in the Tribunal and to certify mediators who have the ability and experience to mediate state and local tax matters.

Section 47 is added to establish the mediation process and the procedure for certifying mediators. Various taxpayer protections are provided by ensuring that mediation is facilitative, not mandatory; guaranteeing that only qualified mediators are certified to mediate tax disputes; assuring taxpayer confidentiality in mediation proceedings; and excepting mediation from the Open Meetings Act and the Freedom of Information Act.

House Bill 4434: Ensures that Fees Support Tribunal Services

House Bill 4434 amends sections 26, 49, and 61 of the TTA, MCL 205.726, 205.749, and 205.761, to ensure that small claims decisions are ultimately decided by Tribunal Members and that fees collected by the Tribunal are available to continue to fund cases that may extend beyond a fiscal year.

Specifically, section 49 is amended to ensure that fees collected in a case are used in that case and that any amount remaining can be used for cases in which the parties may not be able to afford fees or costs, i.e. residential small claims; to eliminate the requirement to allocate certain costs and provide for overall funding; and to preserve the provisions that no fee is required in appeals of property with a principal residence exemption.

House Bill Request 4435: Expanding the Pool of Appointee Applicants

House Bill 4435 amends section 22 of the TTA, MCL 205.722, which sets out the appointment criteria for the seven members of the Tribunal. This change eliminates the restriction that not more than three tribunal members be members of the same professional designation. This allows more flexibility in finding the best qualified candidates and expands the pool of qualified applicants. The requirement that the Tribunal include at least one Assessor, one Appraiser, and one Certified Public Accountant is retained.

House Bill 4436: Streamlining the Small Claims Hearing Process

House Bill 4436 amends section 62 of the TTA, MCL 205.762, which establishes the requirements of the small claims and residential property tax division of the Tribunal.

The Bill raises the amount of tax in dispute threshold for small claims cases from \$6,000 to \$20,000. This will allow more parties to request that their case be heard in the small claims and residential property division with its simpler procedures, as opposed to the more formal procedures in the entire tribunal division. The bill will also allow filing in the small claims and residential property division, if the parties agree, even if the amount of tax in dispute in the case exceeds the small claims filing thresholds.

House Bill 4436 also provides litigants the convenience of choosing to have a small claims case heard telephonically, by video conference, or at a mutually-agreed location in addition to the current statutory requirement of holding a hearing in the county where the property is located or within 100 miles.

The amendments also provide that if an administrative law judge hears their case, the administrative law judge's decision is a proposed opinion that is reviewed by and may be modified by the Tribunal.

House Bill 4437: Ensure Safety of Small Claims Hearings

House Bill 4437 repeals section 66 of the TTA, MCL 205.766, which permitted, under certain circumstances, hearings to be held after 6:00 p.m. Small claims hearings, outside of the Lansing area, are conducted in public, governmental buildings. This section has raised safety concerns and increases cost to state and local governments which do not regularly have evening hours. The Tribunal believes that the issue is best resolved by offering telephonic hearings and video conferencing.

The overall purpose of these bills is to make the Tribunal more “user friendly” by streamlining Tribunal procedures, reducing the cost to taxpayers by providing greater choice, and offering mediation as an option for resolving disputes. These changes will assist the Tribunal by reducing the cost of litigation to the Tribunal and by facilitating quicker resolution of cases.

